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Anna A. Bradshaw

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FEDERAL COMMUNICATIONS COMMISSION

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In Re Applications of:)	
RAINBOW BROADCASTING COMPANY)	GC DOCKET No.: 95-172
)	File No.: BMPCT-910625KP
)	File No.: BMPCT-910125KE
For an Extension of Time to)	File No.: BTCCT-911129KT
Construct)	
)	
and)	
)	
For an Assignment of its)	
Construction Permit for)	
Station WRBW(TV),)	
Orlando, Florida)	

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Date: January 30, 1996

HERITAGE REPORTING CORPORATION

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Room 234
Courtroom 3
FCC Building
2000 L Street, N.W.
Washington, D.C.

Tuesday,
January 30, 1996

The above-entitled conference came on for
hearing, pursuant to the notice of the Judge, at 9:04 a.m.

BEFORE: HON. JOSEPH CHACHKIN
Administrative Law Judge

APPEARANCES:

On behalf Rainbow Broadcasting Limited:

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(202) 628-4888

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On behalf of Press Broadcasting Co.:

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On behalf of Federal Communications Commission:

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I N D E X

WITNESSES: DIRECT CROSS REDIRECT RECROSS VOIR DIRE
None.

E X H I B I T S

IDENTIFIED RECEIVED REJECTED
None.

Hearing Began: 9:04 a.m.

Hearing Ended: 11:45 a.m.

1 P R O C E E D I N G S

2 JUDGE CHACHKIN: Let's go on the record.

3 This hearing concerns applications of Rainbow
4 Broadcasting Company for an extension of time to construct
5 and for an assignment of its construction permit for Station
6 WRBW(TV) in Orlando, Florida.

7 May I have the appearance of parties on behalf of
8 Rainbow Broadcasting Company.

9 MS. POLIVY: Margot Polivy, Renouf & Polivy, on
10 behalf of Broadcasting Limited.

11 JUDGE CHACHKIN: On behalf of Press Broadcasting,
12 Inc.

13 MR. COLE: Harry Cole and Ann Farhat from the firm
14 of Bechtel & Cole.

15 JUDGE CHACHKIN: And on behalf of the trial staff
16 designated, which represents the Commission.

17 MR. SILBERMAN: David Silberman and Stewart A.
18 Block.

19 JUDGE CHACHKIN: Is there any particular way that
20 you want to call your what you are? Is designated trial
21 staff, is that sufficient or --

22 MR. SILBERMAN: Yes. Your Honor, separate trial
23 staff, designated trial staff, either of those would be
24 fine. And the Hearing Designation Order does note that we
25 are to represent the Commission in this case.

1 JUDGE CHACHKIN: Yes, that's what I indicated,
2 yes.

3 All right. Do you want to speak up?

4 MR. DZIEDZIC: Yes, Your Honor. I am Charles E.
5 Dziedzic. I represent potential witnesses in this case, Roy
6 Stewart, Barbara Kreisman and Clay Pendarvis, and my
7 appearance is noted for that limited purpose.

8 JUDGE CHACHKIN: Well, it seems to me before we
9 get to a question of who you represent -- I mean your
10 representation, as in any other proceeding, if the party has
11 been subpoenaed, they have the right to be represented by
12 counsel, and I assume you're going to serve in that
13 capacity.

14 If a party is not subpoenaed, as I read the rules,
15 they're not entitled to counsel.

16 Am I mistaken, Mr. Cole?

17 MR. COLE: I believe that's correct, Your Honor.

18 JUDGE CHACHKIN: So is there going to be a
19 situation here where the persons you named are going to be
20 subpoenaed by somebody or --

21 MR. DZIEDZIC: I've been advised informally by the
22 parties that these persons that I have identified for the
23 record are potential witnesses.

24 JUDGE CHACHKIN: All right. Well, all I can say
25 is, Mr. Dziedzic, as in any other case, if it should come to

1 pass that these individuals are subpoenaed, you will be
2 entitled to participate as counsel as prescribed in the
3 Commission's rules as to what you are entitled to do, your
4 nature, when you can make objections.

5 I don't have the rules in front of me right now,
6 but you'll be treated as any other counsel representing
7 individuals called to testify.

8 MR. DZIEDZIC: Thank you, Your Honor.

9 I'd like to make one observation now. And that is
10 that I'm not sure that -- in fact, I feel confident that my
11 clients would not be precluded from having representation in
12 the event they were called to testify and it was not
13 pursuant to subpoena.

14 Also Section 1.311 of the Commission rules
15 requires that the Commission authorize any testimony at
16 deposition that may take place.

17 Since one of the purposes of the pre-hearing
18 conference is to pursue discovery, that explains my presence
19 here this morning.

20 MS. POLIVY: Your Honor.

21 JUDGE CHACHKIN: Yes.

22 MS. POLIVY: We may be taking the cart before the
23 horse here. I think that perhaps it would be more clearer
24 if we discussed the questions -- the initial questions on
25 discovery before we address Mr. Dziedzic's concerns.

1 Because I think that his people, the people he
2 represents, will certainly be called. The way in which they
3 will be called I think is a question that will probably be
4 raised here this morning and we'll try to sort through it.

5 So if we could postpone consideration of Mr.
6 Dziedzic's question until we get to that, it might be
7 smoother.

8 JUDGE CHACHKIN: I agree with you.

9 All right.

10 MR. COLE: Your Honor, if I might interject at
11 this point before we go on.

12 JUDGE CHACHKIN: Yes.

13 MR. COLE: If we moved off of that point into
14 further preliminary matters, I have one preliminary matter I
15 would like to raise and this is with respect to Rainbow's
16 appearance.

17 The captioned Applicant is Rainbow Broadcasting
18 Company. And I believe Ms. Polivy, in her written and just
19 now her oral notice of appearance, indicated she was
20 representing Rainbow Broadcasting Limited, which was the
21 buyer or the assignee in the assignment application.

22 I don't believe Rainbow Broadcasting Company's
23 notice of appearance has been submitted and I question
24 whether or not, at least for record purposes, you ought to
25 have that party here before us as well.

1 JUDGE CHACHKIN: Well, as I gather, the assignment
2 application has not been approved yet.

3 MR. COLE: That would certainly be my position,
4 Your Honor, but, as I say, the seller has not been noted as
5 an appearance.

6 JUDGE CHACHKIN: Well, we should find that out.

7 MS. POLIVY: Your Honor --

8 JUDGE CHACHKIN: Perhaps, Ms. Polivy, you can
9 explain it.

10 MS. POLIVY: Yes. Rainbow Broadcasting Limited is
11 the business successor to Rainbow Broadcasting Company. The
12 same principals, the same voting. That assignment, which
13 was a pro forma assignment, was effectuated when the
14 Commission approved the extension and the assignment that
15 was subsequently challenged in court.

16 The Commission's memorandum opinion designating
17 this for hearing specifically says that their order of 9 FCC
18 Record 2839 shall remain in effect. And Rainbow may
19 continue to operate until the hearing is concluded.

20 There has been no requirement that the assignment
21 that has been effectuated be undone. We are not claiming
22 that we're not responsible for anything the Commission may
23 be seeking to pursue against Rainbow Broadcasting. The
24 permit is held by Rainbow Broadcasting Limited.

25 At this juncture, if the Commission orders that

1 permit revoked, we will turn it in. We see no requirement
2 that the transaction that has been done pursuant to the
3 Commission's order be undone. The Court did not order the
4 Commission's opinion vacated. They simply remanded for
5 further hearing.

6 In view of that, Rainbow Broadcasting Limited is
7 the permittee.

8 JUDGE CHACHKIN: Well, by this same token, the
9 Designation Order still indicates that the assignment is
10 still pending.

11 MS. POLIVY: That's correct.

12 JUDGE CHACHKIN: So while in fact it may be that
13 the assignment has been effectuated, the Commission still
14 officially recognized Rainbow Broadcasting Company as the
15 Applicant.

16 MS. POLIVY: It does not exist, Your Honor.

17 JUDGE CHACHKIN: Well --

18 MS. POLIVY: Rainbow Broadcasting Company was a
19 partnership. And --

20 MR. SILBERMAN: Your Honor, may I ask --

21 MS. POLIVY: And the assignment was properly made.
22 I think it's rather a distinction without a difference at
23 this point frankly, given the fact that we're not claiming
24 that we're holders in due course and not responsible.

25 JUDGE CHACHKIN: Go ahead, Mr. Silberman.

1 MR. SILBERMAN: Yes, Your Honor. I'm sorry.

2 The Commission counsel's position on this is that
3 the Designation Order does state that the application has
4 been filed by Rainbow Broadcasting Company. The question --
5 one of the questions to be resolved in this proceeding is
6 whether to grant or deny that application. And while the
7 Court did not vacate that decision, the earlier decision to
8 grant the pro forma assignment application, the Commission
9 did designate for hearing the question of whether the
10 assignment application, as well as the applications for
11 extension of time to construct, should be granted.

12 And we agree with counsel for Press that a new
13 appearance should be entered on behalf of the Applicant to
14 make the record a clean record, because even though I think
15 counsel for Rainbow would agree that they get no advantage
16 out of this, I think for the purpose of the record that an
17 appearance should be entered on behalf of the Applicant,
18 whose application remains pending before the Commission.

19 JUDGE CHACKIN: I would agree with that.

20 Ms. Polivy, although, as you say, it may not
21 exist, still it is the Applicant and therefore the
22 appearance should be made on behalf of the Applicant.

23 MS. POLIVY: Well, Your Honor, I can't appear on
24 behalf of someone that doesn't exist.

25 The Commission's order plainly says that their

1 order shall remain in effect.

2 JUDGE CHACHKIN: But the point of the matter --

3 MS. POLIVY: Their order permitted that assignment
4 to be effectuated. I cannot say to you that we can go back
5 and unwind that pending the outcome of this proceeding
6 because frankly we can't. And I don't think the Commission
7 had that in mind.

8 Rainbow Broadcasting Limited is operating a
9 television station. The Commission says, "You may continue
10 to operate that television station." They were fully aware
11 the assignment took place.

12 JUDGE CHACHKIN: But the --

13 MS. POLIVY: Now, if what you think we should do
14 is go to the Commission and ask for clarification, that's
15 fine. But, you know, I don't want to make a big issue of it
16 but I simply cannot say to you that I will file an
17 appearance on behalf of an entity that does not exist.

18 MR. COLE: Your Honor, as a practice -- if I may.

19 JUDGE CHACHKIN: Yes, Mr. Cole.

20 MR. COLE: The Commission's order does not refer
21 to Rainbow Broadcasting Limited as being operating the
22 station -- in control of the station at this point.

23 I call the Court's attention to paragraph 1 of the
24 Hearing Designation Order which in line 2 refers to Rainbow
25 Broadcasting Company, and then includes the parenthetical

1 definition of Rainbow, meaning, as I interpreted it, that
2 the term "Rainbow" is thereby a defined term referring to
3 Rainbow Broadcasting Company.

4 We then shoot forward to paragraph 9, which is the
5 paragraph Ms. Polivy referred to, which refers to -- "We
6 note that Rainbow is currently providing service to the
7 public pursuant to Broadcast Test Authority."

8 Now, and I'm not aware of any intervening
9 redefinition of the term "Rainbow" to refer to Rainbow
10 Broadcasting Limited.

11 MS. POLIVY: Well, Your Honor, since the only
12 entity that ever provided service under Program Test
13 Authority is Rainbow Broadcasting Limited, either there has
14 been an oversight on the part of the --

15 JUDGE CHACHKIN: The fact of the matter is --

16 MS. POLIVY: -- or we should go and ask the
17 Commission what they meant, because --

18 JUDGE CHACHKIN: You agree that the issues concern
19 the Applicant, Rainbow Broadcasting Company? They don't
20 concern --

21 MS. POLIVY: Your Honor, I agree that the issues
22 concern the people involved in Rainbow Broadcasting Company
23 who are the same people who are the voting stockholders in
24 Rainbow Broadcasting Limited.

25 JUDGE CHACHKIN: The fact of the matter is the

1 issues concern the Applicant, Rainbow Broadcasting Company,
2 and the activities of Rainbow Broadcasting Company.

3 MS. POLIVY: Well, then --

4 JUDGE CHACHKIN: They don't concern the activities
5 of the new entity.

6 MS. POLIVY: Well, Your Honor, the only thing I
7 can say at this point then is that I would ask leave to go
8 and ask the Commission to clarify.

9 JUDGE CHACHKIN: Well --

10 MS. POLIVY: Because I cannot file a notice of
11 appearance on behalf of an entity that does not exist.

12 JUDGE CHACHKIN: It may not exist in fact, but the
13 point of the matter is is that if the determination should
14 be adverse to Rainbow, that means that the Applicant's
15 application for extension of time would be denied, as well
16 as the assignment. And the assignment will never have taken
17 place.

18 MS. POLIVY: But, Your Honor, what it means is
19 that we would turn back the permit. The Commission doesn't
20 say who has turned back this permit. The Commission says,
21 "Has the permit for Channel 64 been turned back?"

22 The ramifications of what Mr. Cole is trying to
23 raise is he wants us to undo a business transaction that was
24 done a year and a half ago.

25 JUDGE CHACHKIN: He's not asking you to undo

1 anything. It's to recognize that the status quo -- the
2 Commission recognizes the status quo is that Rainbow
3 Broadcasting Company is the Applicant. That's the status
4 quo.

5 MS. POLIVY: Well, Your Honor, we will stipulate
6 that the issues here would be binding upon Rainbow
7 Broadcasting Limited.

8 JUDGE CHACHKIN: I don't think that's sufficient.
9 The Applicant in this proceeding is Rainbow Broadcasting
10 Company.

11 Now, if you want to make an appearance on behalf
12 of Rainbow Broadcasting Company, and the entity which you
13 call Rainbow Broadcasting Limited, you can do that. But you
14 do have to make an appearance on behalf of Rainbow
15 Broadcasting Company. Or someone has to make an appearance
16 on behalf of Rainbow Broadcasting Company.

17 MR. COLE: Your Honor, if I might interject one
18 further thought.

19 JUDGE CHACHKIN: Yes.

20 MR. COLE: And that is while Rainbow Broadcasting
21 Company may not exist anymore, I have no information about
22 that. The fact is that appropriate petitions for
23 reconsideration, applications for review, and notices of
24 appeal were timely filed by Press at all times, so that any
25 action which was taken was not final. And any conduct by

1 the parties, subject to non-final action, was at their own
2 risk. And I think that's a fairly well-established
3 proposition.

4 Under those circumstances, if Rainbow in fact has
5 ceased to -- if Rainbow Broadcasting Company has ceased to
6 exist in the meantime, they did so at their own risk.

7 JUDGE CHACHKIN: So, Ms. Polivy, do you wish to
8 enter an appearance for Rainbow Broadcasting Company or are
9 you effectively saying that you are not entering an
10 appearance on behalf of the Applicant, and noted by the
11 Commission?

12 MS. POLIVY: Your Honor, I am not prepared at this
13 time to answer the question, because I really don't know.
14 Rainbow Broadcasting Limited has at all times been the party
15 that participated in the Court of Appeals, appropriately
16 filed with the Commission, that operated the station.
17 Rainbow Broadcasting Limited was a partner, a general
18 partnership.

19 I don't know the ramifications frankly of your
20 asking me to file a notice of appearance on behalf of a
21 party that doesn't exist. So I would ask that we be given
22 leave to study that and make a determination.

23 JUDGE CHACHKIN: Mr. Silberman, what is the
24 situation with respect to the Court of Appeals -- the
25 filings in the Court of Appeals? Who filed -- made the

1 filings?

2 MR. SILBERMAN: Your Honor, according to the
3 Court's decision, which I have before me, the Intervenor
4 noted by the Court in the caption of the case is Rainbow
5 Broadcasting Limited.

6 MS. POLIVY: That's correct.

7 MR. SILBERMAN: And I assume from that that when
8 intervention was noted, pursuant to Section 402(e) of the
9 Communications Act, by counsel, by Rainbow -- it was on
10 behalf of Rainbow Broadcasting Limited.

11 JUDGE CHACHKIN: Well, it seems --

12 MS. POLIVY: And it was explained to the Court
13 that the assignment had taken place.

14 MR. SILBERMAN: When the -- excuse me. May I ask,
15 Your Honor, if that was -- ask counsel if that was when --

16 JUDGE CHACHKIN: By all means.

17 MR. SILBERMAN: -- the notice of intervention was
18 filed? If you stated that --

19 MS. POLIVY: No, it was probably in the brief.

20 MR. SILBERMAN: In the brief.

21 JUDGE CHACHKIN: Well, it seems to me in order to
22 maintain the status quo, an appearance has to be entered on
23 behalf of Rainbow Broadcasting Company, which, as you point
24 out, may not exist, but in order to maintain the status quo
25 for the purpose of this hearing, they're the entity.

1 Now, I'll permit you to enter an appearance on
2 behalf of both entities, but that's your choice. But
3 certainly on behalf of Rainbow Broadcasting Company.

4 MS. POLIVY: Well, Your Honor, I would like the
5 opportunity to study the matter.

6 JUDGE CHACHKIN: All right. When you say you'd
7 like the opportunity to study the matter, what does that
8 mean in terms of --

9 MS. POLIVY: Your Honor, I don't know the
10 ramifications --

11 JUDGE CHACHKIN: I don't think there's any
12 ramification. We're just maintaining the status quo. And
13 the Rainbow Broadcasting Company was the entity, original
14 entity, and --

15 MS. POLIVY: Your Honor, the status quo is that
16 Rainbow Broadcasting Limited is at this point the holder of
17 the permit. If the Commission finds negatively against the
18 permittee, Rainbow Broadcasting Limited will turn back --
19 the license will undo I guess theoretically the assignment.
20 But I'm going to have to consult my client before I can say
21 I will enter an appearance on behalf of an entity that
22 doesn't exist.

23 JUDGE CHACHKIN: Well, as I read the caption, the
24 status quo requires -- in order to maintain the status quo,
25 the assignment in effect has not taken place.

1 MS. POLIVY: Well, the Commission is fully aware
2 that the assignment has taken place.

3 JUDGE CHACHKIN: That may be, but as far as the
4 caption is concerned --

5 MS. POLIVY: And there was no unauthorized --

6 JUDGE CHACHKIN: I'm not suggesting that, but in
7 order to retain -- as I say, the status quo, the assignment
8 has not taken place for purposes of this hearing.

9 Now, it may in fact have taken place, as you say,
10 all these things took place with the understanding you did
11 that so at your own risk.

12 MS. POLIVY: We're not disputing that, Your Honor.

13 JUDGE CHACHKIN: But the Commission is maintaining
14 the status quo here. So I really think there's not much --

15 MS. POLIVY: Can't we ask the Commission simply to
16 change the caption of the case?

17 JUDGE CHACHKIN: Well, that would change the
18 whole -- if the Commission -- then there would be no purpose
19 of having the assignment pending before -- in this
20 proceeding.

21 MS. POLIVY: Well, Your Honor, the reason that I
22 would like to study this is if on the one hand you can say
23 changing the caption is a matter of significance, and on the
24 other hand saying that my entering a notice of appearance
25 for an entity that does not exist is a matter of no

1 significance, it doesn't -- something doesn't really jibe
2 there.

3 If it is a matter of no significance for me to
4 enter an appearance for an entity that doesn't exist, then
5 it's equally a matter of no significance to have the
6 caption -- to have the case changed since what's at issue
7 here is apparently only a question of form.

8 JUDGE CHACHKIN: Ms. Polivy, the Designation Order
9 was released November 22, 1995. If you had any problems
10 with it, you obviously should have filed something long
11 before now.

12 MS. POLIVY: Your Honor, I had no problem --

13 JUDGE CHACHKIN: Well, then if you read --

14 MS. POLIVY: And I have no problem now. Except --

15 JUDGE CHACHKIN: If you read the Designation
16 Order, the Designation Order specifically says in the
17 caption that one of the matters pending is a question of
18 whether to grant the assignment of the construction permit.

19 Now, if you felt that this was an accomplished
20 fact and therefore the Designation Order was wrong, then you
21 should have taken this to the Commission. You haven't done
22 so, and I'm bound by the Commission's Designation Order, and
23 as far as I'm concerned, that application for assignment is
24 still pending, notwithstanding at your own risk that you've
25 effectuated it.

1 All right. Mr. Silberman, what would be the
2 effect, in your judgment, if Ms. Polivy should refuse to
3 enter an appearance on behalf of Rainbow Broadcasting? What
4 would be the effect in terms of her right to proceed with
5 the hearing?

6 MR. SILBERMAN: Well, Your Honor, I hadn't thought
7 of that, and I think on reflection that that would leave a
8 void as far as I'm concerned, as far as the record is
9 concerned, as to who is representing Rainbow Broadcasting
10 Company, the Applicant.

11 JUDGE CHACHKIN: Well, I --

12 MR. SILBERMAN: It could pose a problem in the
13 future I think.

14 JUDGE CHACHKIN: I bring this up because paragraph
15 14 specifically says "Requires the Applicant, the parties,
16 in order to avail themselves an opportunity be heard, to
17 file a notice of appearance."

18 MR. SILBERMAN: Your Honor, I think that if an
19 appearance were entered on behalf of Rainbow Broadcasting
20 Company by Ms. Polivy with an explanation of what has
21 transpired, and an admission that it's without prejudice to
22 the outcome of the case, that would resolve the matter.
23 Because that takes care of the housekeeping.

24 We recognize that the assignment application was
25 granted initially by the Commission. That the Court of

1 Appeals did not vacate that grant but remanded it for
2 further proceedings to examine the qualifications of
3 Rainbow, Rainbow Broadcasting Company. Because I'm assuming
4 here that if at the end of this proceeding, and after the
5 trial is over, and if Your Honor and the Commission decide
6 to deny the extension of time to construct, then the pro
7 forma assignment application would fall by the wayside, and
8 couldn't be granted, if it's determined that the Applicant,
9 the ex parte or the misrepresentation issues, was
10 disqualified.

11 But it seems to me to maintain, as you pointed
12 out, and as Mr. Cole has pointed out, we believe, as a
13 matter of record, Rainbow Broadcasting Company is the named
14 Applicant, and should have representation on the record in
15 the proceeding to maintain the integrity of the record.

16 I think that Ms. Polivy has made a good point in
17 the sense that the assignment has been consummated, the
18 operator of the station is Rainbow Broadcasting Limited,
19 which was the assignee in the assignment application. But
20 the point remains that the Commission was aware of that
21 fact, yet named Rainbow Broadcasting Company in the
22 Designation Order, both in the caption and in the initial
23 paragraph, and in the paragraph you've just mentioned.

24 The Applicant, which is Rainbow Broadcasting
25 Company, was given the opportunity to avail itself of legal

1 counsel.

2 And I think in light of all those facts, that an
3 appearance should be entered on behalf of the named
4 Applicant to maintain, as I said, the integrity of this
5 proceeding so that at the end of the proceeding we don't
6 have any questions raised as to whether they had adequate
7 representation or counsel.

8 JUDGE CHACHKIN: Ms. Polivy.

9 MS. POLIVY: Your Honor, I have nothing further to
10 add.

11 JUDGE CHACHKIN: Well -- Mr. Cole.

12 MR. COLE: I'd just like to interject one thought,
13 which has not been addressed by any counsel this morning.

14 And that is while it may appear at first glance
15 that Rainbow Broadcasting Company is very similar to Rainbow
16 Broadcasting Limited, the fact of the matter is that they
17 are two separate and distinct entities, and that while
18 Rainbow Broadcasting Company held the permit up to and
19 including up through July of 1993, Rainbow Broadcasting
20 Company, the general partnership, did not construct the
21 station. And that is going to be a focus of our attention
22 here.

23 Also Rainbow Broadcasting Company's financial
24 qualifications at all times up to that point, and possibly
25 beyond that point, are at issue. So we will need to have

1 Rainbow Broadcasting Company, its files, its historical
2 records, and so forth available to us.

3 And I'm somewhat concerned that I'm hearing that
4 Rainbow Broadcasting Company doesn't exist at all anymore,
5 because I question what effect that has on our ability to
6 discover information, documents, whatever about that entity,
7 which I think will be essential to the trial of most if not
8 all of the issues.

9 JUDGE CHACHKIN: Ms. Polivy, I think Mr. Silberman
10 pointed out that you can -- point out how we can handle
11 this. That for the purpose of the integrity of the record,
12 there has to be representation on behalf of Rainbow
13 Broadcasting Company. Well, you certainly could point out
14 that the facts that the assignment has now taken place, but
15 since the Commission has named Rainbow Broadcasting Company
16 and to make sure that there is no question later on that
17 Rainbow Broadcasting Company has not been represented in
18 this proceeding, has not had representation on their behalf,
19 that it's essential that an appearance be made on behalf of
20 them.

21 MS. POLIVY: Your Honor, we are willing to
22 stipulate that Rainbow Broadcasting Limited is the successor
23 to Rainbow Broadcasting Company. And we have not raised any
24 of the horrors that have been theoretically posited nor do
25 we intend to.

1 I understand you think that it's a matter of form
2 that we should just say we'll file a piece of paper that
3 says Rainbow Broadcasting Company. But frankly I don't know
4 the ramifications of doing that. And until I have an
5 opportunity to consider that, I can't say any more than we
6 are willing to stipulate that Rainbow Broadcasting Limited
7 is a successor to Rainbow Broadcasting Company and will be
8 bound by those things that are found against Rainbow
9 Broadcasting Company.

10 JUDGE CHACHKIN: Ms. Polivy, I will give you an
11 opportunity for you to reflect on this matter and recognize
12 that the perils of not entering an appearance for Rainbow
13 Broadcasting Company since the Commission specifically says
14 in order to participate in this proceeding has to file a
15 notice of appearance. And the party named here is Rainbow
16 Broadcasting Company.

17 How much time do you want in order to make a
18 decision on this?

19 MS. POLIVY: We will advise you within three days.

20 JUDGE CHACHKIN: All right. We'll proceed with
21 the pre-hearing conference.

22 I issued an order requiring the parties to get
23 together and discuss, explore and propose stipulation to
24 discovery as well as any other pre-hearing procedures. I
25 received a letter from Ms. Polivy indicating that there was